

RULE 213

Standards for Permits to Construct Air Quality Impact

(a) General:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units of a stationary source that fail to meet the applicable requirements of subsection (b) or (c) of this Rule.

(b) Best Available Control Technology:

(1) New Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units constituting a new stationary source if such source will emit more than 250 pounds per day of nitrogen oxides, organic gases, or any contaminant for which there is a national ambient air quality standard (except carbon monoxide) for which the limits are 2500 pounds per day unless the applicant shows that the new source is constructed using best available control technology.

(2) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any modification of any existing stationary source if such modification will result in a net increase in emissions of more than 250 pounds per day of nitrogen oxides, organic gases, or any air containment for which there is a national ambient air quality standard (except carbon monoxide) for which the limits are 2500 pounds per day) unless the applicant demonstrates that the modification of the existing stationary source will be constructed using best available control technology.

(c) Air Quality Impact Analysis:

(1) New Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any unit or units constituting a new stationary source if such source will emit more than 250 pounds per day of nitrogen oxides, organic gases, or any air contaminant for which there is a national ambient air quality standard except carbon monoxide, for which the limits are 2500 pounds per day or which is a precursor of any such air contaminant, unless he determines that the emissions from the new source will not cause a violation of the national ambient air quality standard for that same contaminant (or, in the case of a precursor, for the contaminant to which the precursor contributes).

(2) Modifications to Existing Stationary Sources:

The Air Pollution Control Officer shall deny a permit to construct for any modification of any existing stationary source if the modification will result in a net increase in emissions from the existing source of more than 250 pounds per day of nitrogen oxides, organic bases, or any air contaminant for which there is a national ambient air quality standard (except carbon monoxide, for which the limits are 2500 pounds per day), or which is a precursor of any such air contaminant, unless he determines that the emissions from the modified source will not cause a violation of the national ambient air quality standard for that same contaminant, (or in the case of a precursor, for that contaminant to which the precursor contributes).

(d) Determination of Emission Increases:

In determining under [subsection \(b\) \(2\) \(A\)](#) and [subsection \(c\) \(2\)](#) whether there has been a net increase in emissions and, if so, the amount of any such increase, the Air Pollution Control Officer shall consider all increases and decreases of emissions caused by modifications to that stationary source pursuant to permits to construct issued during the preceding five years, or since the adoption of this Rule, whichever period is shorter. Emission reductions required to comply with federal, state, or district laws, emission limitations, or rules or regulations shall not be considered to be in emissions for the purposes of this subsection.

(e) Consideration of Future Emission Reductions:

In making the analysis required in [subsection \(h\) \(2\)](#), the Air Pollution Control Officer shall take into consideration the air quality impact of any reduction in the emissions of the same air contaminant which results from the elimination or modification of other existing stationary sources under the same ownership and operating within the same air basin. If reductions are to be based on planned elimination or modification of any stationary

sources, the Air Pollution Control Officer shall condition the permit to operate to require such elimination or modification within not more than 90 days after the start-up of the new or modified source. Emission reductions required to comply with federal, state or district laws, emission limitations, or rules or regulations shall not be considered to be decreases in emission for the purposes of this subsection.

(f) Exemptions:

- (1) The Air Pollution Control Officer shall exempt from the provisions of subsection (c) of this Rule, any new stationary source or modification of any existing stationary source which:
 - (A) Will be in whole or in part a replacement for an existing stationary source at the same location if the resulting emissions of any air contaminant will not be increased. The Air Pollution Control Officer may allow a maximum of 90 days as a start-up period for simultaneous operation of the existing stationary source or replaced portions thereof, and the new stationary source or replacement: or
 - (B) Will cause demonstrable air quality benefits within the air basin, provided however, that the written concurrence of the California Air Resources Board and United States Environmental Protection Agency shall be obtained prior to the granting of an exemption hereunder: or
 - (C) Will be used exclusively for providing essential public services such as schools, hospitals, or police and fire fighting facilities, but specifically excluding sources of electrical power generation other than for emergency standby use at public service facilities: or
 - (D) Is exclusively a modification to convert from use of gaseous fuels to fuel oil because of demonstrable shortages of gaseous fuels, provided that all units constituting the modification will utilize best available control technology. Modifications for the purpose of this paragraph shall include the addition or modification of facilities for storing, transferring and/or transporting such fuel oil at the stationary sources. A condition shall be placed on the operating permit requiring conversion to gaseous or other equivalent low polluting fuels when they are, or become, available: or
 - (E) Is air pollution control equipment which, when in operation, will reduce emissions from an existing source: or
 - (F) Is portable sandblasting equipment used on a temporary basis within the air basin.

(2) The Air Pollution Control Officer may exempt from the provisions of subsection (c) of this Rule, any new stationary source, or modification of an existing stationary source, which has been determined to be:

- (A) A new stationary source or modification of an exiting stationary source utilizing unique and innovative control technology which will result in a significantly lower emission rate from the source than would have occurred with the use of previously known best available control technology, to be applied to similar stationary sources within a State. In order for a stationary source to be exempted under this paragraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination: or
- (B) A new stationary source or modification of an existing stationary source that represents a significant advance in the development of a technology that appears to offer extraordinary environmental or public health benefits or other benefits of overriding importance to the public health or welfare. In order for a stationary source to be exempted under this paragraph, the applicant must obtain the written concurrence of the California Air Resources Board and the United States Environmental Protection Agency with the Air Pollution Control Officer's determination.

(g) Notice Requirements for Proposed Exemptions:

Before granting an exemption under subsection (f) (1) (B), (f)(2)(A) or (f)(2)(B) of this Rule, the Air Pollution Control Officer shall publish a notice by prominent advertisement in at least one newspaper of general circulation in the District and shall notify in writing of his intention: the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. Calculations and technical data used by the Air Pollution Control Officer as the basis for granting exemptions pursuant to subsection (f)(1)(B), (f)(2)(A) or (f)(2)(B) shall be made available to the California Air Resources Board and the United States Environmental Protection Agency. Before granting an exemption under subsection (f)(1)(B), (f)(2)(A) or (f) (1) (B) of this Rule, the Air Pollution Control Officer shall consider any comments received within 30 days after the date of publication or date of notification of the above agencies, whichever occurs later, and shall have obtained the concurrence of the California Air Resources Board and the United States Environmental Protection Agency.

In addition, the Air Pollution Control Officer shall notify in writing the United States Environmental Protection Agency and the California Air Resources Board of the granting of an exemption under subsection (f)(1)(A), (f)(1)(C) or (f)(1)(D).

(h) Procedures for Evaluation of Applications for Permits to Construct:

Before granting a permit to construct for any unit of a new stationary source or modification subject to the requirements of subsection (c) of this Rule, the Air Pollution Control Officer shall:

- (1) Require the applicant to submit information sufficient to describe the nature and amounts of emissions, location, design, construction, and operation of the source, to submit any additional information required by the Air Pollution Control Officer to make the analysis required by this Rule.
- (2) Analyze the effect of the operation of the new or modified stationary source on air quality in the vicinity of the new source or modified stationary source, within the air basin and within adjoining air basins. Such analysis shall consider the air contaminant emissions and in the vicinity of the new source or modified source within the air basin and within adjoining air basins at the time the new source or modification is proposed to commence normal operation. Such analysis shall be based on the application of existing state and local rule and regulations.
- (3) Upon completion of the evaluation, but before granting a permit to construct:
 - (A) Publish a notice by prominent advertisement in at least one newspaper of general circulation in the District, stating the preliminary decision to grant the permit to construct and where the public may inspect the information required by this subsection. A copy of the notice shall also be sent to the applicant, the United States Environmental Protection Agency, the California Air Resources Board and adjoining air pollution control districts. The notice shall provide a period of 30 days, beginning on the date of publication, or on the date of notification of the above agencies, whichever occurs later, for the public to submit comments on the application.
 - (B) Make available for public inspection at the Mojave Desert Air Quality Management District, except as otherwise limited by law: the information submitted by the applicant, the Air Pollution Control Officer's analysis of the effect of the source on air quality and the preliminary decision to grant the permit to construct. Such information shall also be forwarded to the California Air Resources Board for review.
 - (C) Consider all comments submitted. If within the 30-day notice period the Air Pollution Control Officer receives a written request from either the United States Environmental Protection Agency or California Air Resources Board to defer the Air Pollution Control Officer's decision pending the requesting agency's review of the application, the Air Pollution Control Officer shall honor such request for a period of 60 days from the date of such request.

(i) Additional Applicant Requirements:

Receipt of a permit to construct shall not relieve the stationary source owner or operator of the responsibility to comply with other applicable portions of the District's Rules and Regulations.

(j) Severability:

If any portion of this Rule shall be found to be unenforceable, such finding shall have no effect on the enforceability of the remaining portions of the Rule, which shall continue to be in full force and effect.

[SIP: Not SIP; Superseded by approval of Reg. XIII as adopted 7/21/80, 6/9/82, 47 FR 25013 40 CFR 52.220(c)(87)(iv); Approved 11/9/78, 43 FR 52237, 40 CFR 52.220(c)(39)(ii)(B) and 40 CFR 52.220(c)(31)(vi)(C)]